

2003 DRAFTING REQUEST**Bill**Received: **04/04/2003**Received By: **dkennedy**Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**By/Representing: **Himself**This file may be shown to any legislator: **NO**Drafter: **dkennedy**May Contact: **Dick Sweet**

Addl. Drafters:

Subject: **Health - miscellaneous
Health - medical assistance**Extra Copies: **RLR**Submit via email: **YES**Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize volunteer dentists to charge MA reimbursement for the volunteer health care provider program

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	dkennedy 05/02/2003	kgilfoy 05/02/2003	jfrantze 05/05/2003	_____	sbasford 05/05/2003		S&L
/2	dkennedy 06/26/2003	kgilfoy 06/26/2003	rschluet 06/26/2003	_____	lemery 06/26/2003		S&L

07/29/2003 08:11:49 AM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	dkennedy 07/09/2003	kgilfoy 07/09/2003	jfrantze 07/10/2003	_____	lemery 07/10/2003	sbasford 07/29/2003	
				_____		sbasford	
				_____		07/29/2003	

FE Sent For: 05/07/2003, 05/07/2003.

13
Attn: intro.

<END>

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/2	dkennedy 06/26/2003	kgilfoy 06/26/2003	rschluet 06/26/2003		lemery 06/26/2003		S&L

for Assm
per Scott

07/10/2003 12:19:25 PM

Page 2

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kmq

Jb 7/10

Jb 7/10
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06/26/2003 12:24:25 PM

Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: **05/07/2003, 05/07/2003.**

<END>

05/05/2003 07:50:53 AM

Page 1

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/?							S&L
/1	dkennedy 05/02/2003	kgilfoy 05/02/2003	jfrantze 05/05/2003		sbasford 05/05/2003		

FE Sent For: *1/1 "12-6/26 King 6-263 P6*
5/7/03 Scott

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1?	dkennedy	1-5/2 King	6/5/3	Self 5/5			

FE Sent For:

<END>

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

4/4/03

CONVERSATION
WITH:

Steve Wieckert

OF:

TELEPHONE NO:

REGARDING LRB #
OR DRAFT TOPIC:

INSTRUCTIONS: 146.89 — Wants dentists to be
able to have program reimbursed if
provide services to MA recipients

May call Dick Sweet re details.



(300N) - In edit 5/2
State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2500/1

DAK: f....
King

2003 BILL

1 AN ACT ^{Gen. Asst.} relating to: provision of dental services to Medical Assistance
2 recipients by a volunteer health care provider.

Analysis by the Legislative Reference Bureau

Under the Volunteer Health Care Provider Program in current law, health care services of a volunteer health care provider and a nonprofit agency whose joint application is approved by the Department of Administration must be provided without charge primarily to low-income persons who are uninsured and are not recipients of Medical Assistance (MA) or Medicare Program benefits.

This bill authorizes a volunteer health care provider who is a certified provider of MA services to provide dental services to MA recipients. The MA reimbursement must be paid to the nonprofit agency with which the volunteer health care provider is joined in an approved application.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 146.89 (3) (a) of the statutes is amended to read:

4 146.89 (3) (a) The volunteer health care provider shall provide services under
5 par. (b) without charge, except as provided in par. (e), at the nonprofit agency, if the

BILL**SECTION 1**

1 joint application of the volunteer health care provider and the nonprofit agency has
2 received approval under sub. (2) (a).

3 History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.

3 **SECTION 2.** 146.89 (3) (d) 2. of the statutes is amended to read:

4 146.89 (3) (d) 2. ~~Medical assistance~~ Except as provided in par. (e), Medical
5 Assistance under subch. IV of ch. 49.

6 History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.

6 **SECTION 3.** 146.89 (3) (e) of the statutes is created to read:

7 146.89 (3) (e) A volunteer health care provider who is certified under s. 49.45
8 (2) (a) 11. a. ✓ may provide dental services to persons who are recipients of Medical
9 Assistance, for which reimbursement shall be paid to the nonprofit agency, rather
10 than to the volunteer health care provider who provides the dental services.

11 (END)

MA Ron Mac Free Dental

Sec. 447.271 Upper limits based on customary charges.

(a) Except as provided in paragraph (b) of this section, the agency may not pay a provider more for inpatient hospital services under Medicaid than the provider's customary charges to the general public for the services.

(b) The agency may pay a public provider that provides services free or at a nominal charge at the same rate that would be used if the provider's charges were equal to or greater than its costs.

Other Inpatient and Outpatient Facilities

The agency may pay the customary charges of the provider but must not pay more than the prevailing charges in the locality for comparable services under comparable circumstances. [Reg. §447.325 .]

State Medicaid plans generally now are required to provide methods and procedures assuring that payments for these services and items are consistent with efficiency, economy, and quality of care. Federal financial participation, therefore, is available in expenditures for payments that do not exceed these criteria.

Upper Limits Based On Customary Charges

Payment for inpatient hospital services cannot exceed the provider's customary charges to the general public, except that payment to a public hospital that provides services for free or at nominal charges may be at the same rate that would be used if the hospital's charges were equal to or greater than its costs. [Soc. Sec. Act §1903(i)(3) ; Reg. §447.271 .]

§4375. TUBERCULOSIS RELATED SERVICES,

State Medicaid Manual, Part 4 (CMS-Pub. 45-4)

you may cover pick-up and delivery of prescribed drugs as long as this service is not generally provided for free in the community

§5230.1 Relations With State Maternal and Child Health (MCH) Programs.,

State Medicaid Manual, Part 5 (CMS-Pub. 45-5)

The overall goal of a State MCH-Medicaid agreement is to improve the health status of children by assuring the provision of preventive services, health examinations, and the necessary treatment and follow-through care, preferably in the context of an ongoing provider-patient relationship and from comprehensive, continuing care providers.

Medicaid agencies reimburse title V providers for these services even if they are provided free of charge to low-income uninsured families.

§5340..REIMBURSEMENT,
State Medicaid Manual, Part 5 (CMS-Pub. 45-5)

A. General Information.--Any service provided to EPSDT eligibles covered under the EPSDT program may be reimbursed under Medicaid, even if it is mandated by another agency or available as a community health service.

Medicaid provides financial access to health care services for individuals determined unable to pay for them, assures availability and delivery of EPSDT services, provides or arranges for covered services, and pays for them unless the beneficiary has liable third party coverage or the services are provided free of charge. Third party resources include Medicare (title XVIII), Railroad Retirement Act, insurance policies (private health, group health, liability, automobile, or family health insurance carried by an absent parent), Workers' Compensation, Veterans Administration Benefits, and Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

Except for title V services, it is Medicaid policy that services which are available without charge to all individuals in the community may not be reimbursed. Services without charge, for purposes of Medicaid, means that no individual or family is charged for medical care and third party reimbursement is not sought.

The law requires the provision of the services needed by EPSDT clients if the services can be covered under the Medicaid program. Coordination of services to maximize treatment of clients is an essential aspect of the EPSDT program. Therefore, programs which enter into written interagency and/or provider agreements with the Medicaid agency to provide a service mandated on that agency, must specify the terms of reimbursement in such agreements.

The following conditions must be met if Medicaid is to be billed for medical services provided by other agencies or programs financed by Federal and State funds:

- o A fee schedule is established for each service billed to Medicaid; and
- o Information on third party liable resources is obtained from each Medicaid beneficiary, and billing of all third party liable resources is documented.

§6005. UPPER PAYMENT LIMIT REQUIREMENTS,
State Medicaid Manual, Part 6 (CMS-Pub. 45-6)

42 CFR 447.271, based on §1903(i)(3) of the Social Security Act, mandates additional cost limits on inpatient hospital services. Specifically, the regulation requires that the State agency not pay a provider more for inpatient hospital services under Medicaid than the provider's customary charges to the general public for services. However, the State

agency may pay a public provider furnishing services free or at a nominal charge at the same rate that is used if the provider's charges were equal to or greater than its costs.

HFS 101.03(181)

(181) "Usual and customary charge" means the provider's charge for providing the same service to persons not entitled to MA benefits.

HFS 106.02(9)(c)

(c) Financial records. A provider shall maintain the following financial records in written or electronic form:

3. Evidence of the provider's usual and customary charges to recipients and to persons or payers who are not recipients;

All Provider Handbook

Usual and Customary Billing

You, the provider, are required to bill your usual and customary charge for the service performed. The usual and customary charge is the provider's charge for providing the same service to persons not entitled to Wisconsin Medicaid benefits. For providers using a sliding fee scale for specific services, the usual and customary charge is the median of the individual provider's charge for the service when provided to non-Medicaid patients.

Providers may not discriminate against Wisconsin Medicaid recipients by charging Medicaid a higher fee for the same service than that charged to a private-pay patient.

For services requiring a recipient copayment, providers should still bill their usual and customary charge. Do not deduct the copayment amount collected from the recipient from the charge billed to Wisconsin Medicaid. Please refer to your service-specific handbook for information unique to the services you are billing.

For providers who have not established usual and customary charges, the charge should be reasonably related to the provider's cost to provide the service.

For most types of providers, Wisconsin Medicaid reimburses the lesser of a provider's usual and customary charge or the maximum allowable fee established by the Department of Health and Family Services (DHFS). A maximum allowable fee schedule lists all procedure codes allowed by Wisconsin Medicaid for a provider type and Medicaid's maximum allowable fee for each procedure code. Please refer to your service-specific handbook for more detailed information on reimbursement.

Dental Handbook

Providers must bill Wisconsin Medicaid their usual and customary charge for services provided, which is the amount charged by the provider for the same service when

provided to private pay patients. For providers using a sliding fee scale for specific services, "usual and customary" means the median of the individual provider's charge for the service when provided to non-Medicaid patients. Providers may not discriminate against Medicaid recipients by charging a higher fee for the service than is charged to a private pay patient.

The billed amount should not be reduced by the amount of Wisconsin Medicaid recipient copayment. The applicable copayment will automatically be deducted from the payment allowed by Wisconsin Medicaid. Refer to Section I of this handbook for general information about dental service copayments.

A Wisconsin Medicaid Dental Maximum Allowable Fee Schedule is available. The fee schedule consists of the dental procedure code, a prior authorization (PA) indicator, a brief narrative description, the maximum fee, and the copayment amount associated with the service.

Copies of the Wisconsin Medicaid Dental Maximum Allowable Fee Schedule may be purchased by submitting the order form located in Appendix 38 of Part A, the all-provider handbook.

the customary charge limitation of section 1903(i)(3)

Section 1320a-7(c)

Ronald McDonald Care Mobile program.

About RMHC's Commitment

RMHC is planning to grant 50 Ronald McDonald Care Mobile programs by the end of 2005. Currently, there are twelve programs serving:

- Springfield, MO
- Spokane, WA
- Madison, WI
- Worcester, Massachusetts
- Pittsburgh, Pennsylvania
- Winston-Salem, North Carolina
- San Jose, California
- Billings, Montana
- Houston, Texas
- Philadelphia, Pennsylvania
- Hilton Head, South Carolina
- Buenos Aires, Argentina

Kennedy, Debora

From: Gebhart, Neil
Sent: Thursday, May 15, 2003 10:36 AM
To: Kennedy, Debora
Subject: LRB-2500/1



MA Ron Mac Free
Dental.doc

Here is the downloaded material I mentioned. The clearest statement of the principle is probably in §5340 of the State Medicaid Manual (see attachment, p.2). Also see the discussion of "usual and customary charge" in state rules.

5/7 /03 Robt. Blaine, Ellen Hadidian, Neil Gebhart, Laura Rose, Andy (DHFS), Scott Becker, Mara

Clinic that wants this largely serves MA patients; right now, only volunteer dentists provide services, but may hire dentist

Problem: MA payments for services to non-MA ~~services~~ patients that are provided for free

NG: Wants

If it is providing indemnity clinic will charge other pts based on ability to pay

Use 100% of pov. level - charge \$5; don't accept above 200%

Only way is to accept only MA pts. + create a UCR -

** Need to add dental hygiene services

Reas. + necess or MA - so wd.

If us + cust rate is reas. related to cost

I can't be determined, charges shd be

Possible: one entity two separate reimbursements

• Talk to dentists re incorporating 2 clinics

DHFS: Check out MA regents re fraud, reimbursement

146.89 Volunteer health care provider program.

(1) In this section, "volunteer health care provider" means an individual who is licensed as a physician under ch. 448, dentist under ch. 447, registered nurse, practical nurse or nurse-midwife under ch. 441, optometrist under ch. 449 or physician assistant under ch. 448 or certified as a dietitian under subch. V of ch. 448 and who receives no income from the practice of that health care profession or who receives no income from the practice of that health care profession when providing services at the nonprofit agency specified under sub. (3).

(2) (a) A volunteer health care provider may participate under this section only if he or she submits a joint application with a nonprofit agency to the department of administration and that department approves the application. The department of administration shall provide application forms for use under this paragraph.

(b) The department of administration may send an application to the medical examining board for evaluation. The medical examining board shall evaluate any application submitted by the department of administration and return the application to the department of administration with the board's recommendation regarding approval.

(c) The department of administration shall notify the volunteer health care provider and the nonprofit agency of the department's decision to approve or disapprove the application.

(d) Approval of an application of a volunteer health care provider is valid for one year. If a volunteer health care provider wishes to renew approval, he or she shall submit a joint renewal application with a nonprofit agency to the department of administration. The department of administration shall provide renewal application forms that are developed by the department of health and family services and that include questions about the activities that the individual has undertaken as a volunteer health care provider in the previous 12 months.

(3) Any volunteer health care provider and nonprofit agency whose joint application is approved under sub. (2) shall meet the following applicable conditions:

(a) The volunteer health care provider shall provide services under par. (b) without charge, except as provided in sub. (5), at the nonprofit agency, if the joint application of the volunteer health care provider and the nonprofit agency has received approval under sub. (2) (a).

(b) The nonprofit agency may provide the following health care services:

1. Diagnostic tests.
2. Health education.
3. Information about available health care resources.
4. Office visits.
5. Patient advocacy.

6. Prescriptions.
7. Referrals to health care specialists.
8. Dental services, including simple tooth extractions and any necessary suturing related to the extractions, performed by a dentist who is a volunteer health provider.

(c) The nonprofit agency may not provide emergency medical services, hospitalization or surgery, except as provided in par. (b) 8.

(d) The nonprofit agency shall provide health care services primarily to low-income persons who are uninsured and who are not recipients of any of the following:

2. ~~Medical assistance~~ Except as provided in sub. (5), Medical Assistance under subch. IV of ch. 49.

3. Medicare under 42 USC 1395-1395ccc.

(4) Volunteer health care providers who provide services under this section are, for the provision of these services, state agents of the department of health and family services for purposes of ss. 165.25 (6), 893.82 (3) and 895.46.

(5) Notwithstanding sub. (3) (a) and (3) (d) 2., a volunteer health care provider is a state agent under sub. (4) for the provision of dental services to persons who are recipients of Medical Assistance if the nonprofit agency imposes a charge on other patients based on ability to pay.

Kennedy, Debora

From: Becher, Scott
Sent: Thursday, May 29, 2003 2:35 PM
To: Kennedy, Debora
Subject: FW: GREAT NEWS on MEDICAID TRI-COUNTY CLINIC BILLING ISSUE!

Importance: High

-----Original Message-----

From: Mara Brooks - WDA [mailto:mbrooks@wda.org]
Sent: Thursday, May 29, 2003 11:23 AM
To: Dr. Timothy Rose; Dr. Tim Brown; Dr. Loren Swanson; Dr. Robert Brennan; Dr. Lisa Lang-Riegel
Cc: Scott Becher (Rep. Wieckert); Lara Mathew; Dr. Tim Wall; Dr. Thomas Hughes; Dr. Steve Lindstrom; Dr. Roger Comeau; Dr. Richard Lofthouse; Dr. Paul Vander Kelen; Dr. Paul Hagemann; Dr. Patrick McCormick; Dr. Nancy Barton; Dr. Mike Kaske; Dr. Michael Miles; Dr. Michael Donohoo; Dr. Kent Vandelaar; Dr. John R. Moser; Dr. James Springborn; Dr. Fred Jaeger; Dr. Francesca DeRose; Dr. Eva Dahl; Dr. Dennis Engel; Dr. Constantine Stamatelakys; Dr. Bob Villwock; Dennis McGuire; Chuck Jackson; Barrett Straub (MUSOD); Dr. Tim McNamara; Monica Hebl, DDS; Dr. Monica Hebl; Carol Weber (PR); Amy Vander Heiden (WDA)
Subject: GREAT NEWS on MEDICAID TRI-COUNTY CLINIC BILLING ISSUE!
Importance: High

Hello all:

This is great news from the Medicaid division at DHFS --- they have accepted our solution for the billing issues that we faced the other day ---- I do believe all will be good to go from here on out --- I will touch base with Rep. Wieckert's (Scott Becher of his staff has been cc'd on this e-mail) office as I know he is anxious to get moving on the liability bill --- all looks good with that as well -- as long as the drafter has made the corrections that raised concerns with DHFS to begin with. The fiscal estimate on that came in very small in relation to other legislation ---- it was under \$1,000 which really should not present a hurdle for us. We will need to have some dentists from the area come down to testify on the bill once it is scheduled for a hearing. I will be in touch when this occurs. Amy, please also fax this to those dentists who are in the "To:" column (not the cc column) so that they receive immediate notification that this issue has been resolved and ask them to let me know if they have any problems whatsoever in implementing the final resolution --- if they do, now is the time to inform me before the ball gets rolling down the legislative hill so to speak. Thanks! mara

Mara Brooks
Director of Government Services
WISCONSIN DENTAL ASSOCIATION
10 East Doty Street, Suite 509
Madison, WI 53703
ph: (608) 250-3442
fax: (608) 282-7716
e-mail: mbrooks@wda.org

-----Original Message-----

From: Andy Snyder [mailto:snydea@dhfs.state.wi.us]
Sent: Thursday, May 29, 2003 10:36 AM
To: mbrooks@wda.org
Subject: Fwd: Re: Medicaid Billing Issue

Hi, Mara.

I've confirmed with our legal counsel that the solution you proposed in your e-mail is sufficient for our purposes. The clinic should maintain (for its own business purposes, as well as in case we would ever have need to request it) a list of services it provides, and the value it places on those services -- that is, what they would charge a regular, privately-insured or private-pay patient who doesn't meet any criteria for charity care. This will constitute its usual and customary rates. The clinic will not need to submit a copy of this schedule to DHFS in order to bill Medicaid, although it should use these amounts when submitting claims. Medicaid will reimburse at the lesser of the UCR or the maximum allowable fee.

Please let me know if you have comments or questions.

Best,
Andy

Andrew Snyder
Dental Analyst
Bureau of Health Care Benefits
Division of Health Care Financing
(608) 266-9749

snydea@dhfs.state.wi.us

>>> "Mara Brooks - WDA" <mbrooks@wda.org> 05/21/03 05:56PM >>>

Andy -

Has DHFS come up with something on the Medicaid billing issue that arose last week? I received a call from Rep. Wieckert's office today trying to find out what the status is and I said I would send you an e-mail and see what's up. Do you have anything more on that yet? If not, do you know when you think you will expect to have something on this?

I'm not quite sure what would be wrong if a dental clinic were to have one fee schedule for all patients and then for them to just accept different payments from different sources --- so they set the fee schedule at what they believe is the value of each of their dental services and that value is the same for all patients. Then, from that fee schedule they bill Medicaid and accept the discounted Medicaid payments as payment in full --- and they also bill the patients but accept the discounted payment of something like \$5 or \$10 per procedure for those patients that fall into a really low income category (100%-200% of poverty) and have no Medicaid coverage. The fee schedule remains the same for all the services provided but the payments made would vary because the payer would be responsible for making the payment on those --- Medicaid is running at about a 50% discount --- and it would simply be a greater discount offered to those who fall in the 100-200% poverty range and have no Medicaid. I don't understand if this is a problem --- and if so, why? Please inform. Thanks. mara

Mara Brooks
Director of Government Services
WISCONSIN DENTAL ASSOCIATION
10 East Doty Street, Suite 509
Madison, WI 53703
ph: (608) 250-3442
fax: (608) 282-7716
e-mail: mbrooks@wda.org

Kennedy, Debora

From: Becher, Scott
Sent: Thursday, May 29, 2003 6:04 PM
To: Kennedy, Debora
Subject: FW: Do You Have Copy DHFS Drafting Recommendations?



MA dental indemnity
legn_1.doc...

Debora-

Per our conversation from earlier today.

Scott Becher
Rep. Wieckert

-----Original Message-----

From: Mara Brooks - WDA [mailto:mbrooks@wda.org]
Sent: Thursday, May 29, 2003 6:08 PM
To: Scott Becher (Rep. Wieckert)
Subject: FW: Do You Have Copy DHFS Drafting Recommendations?

Here is the draft of recommended changes that were discussed at the meeting a couple of weeks ago --- the DHFS draft and the e-mail contact are below --- this is probably what you want to share this with the drafter at the LRB (Deborah Kennedy). Let me know if there is something more you need from me on this. Thanks. mara

Mara Brooks
Director of Government Services
WISCONSIN DENTAL ASSOCIATION
10 East Doty Street, Suite 509
Madison, WI 53703
ph: (608) 250-3442
fax: (608) 282-7716
e-mail: mbrooks@wda.org

-----Original Message-----

From: Andy Snyder [mailto:snydea@dhfs.state.wi.us]
Sent: Thursday, May 29, 2003 2:53 PM
To: mbrooks@wda.org
Subject: Re: Do You Have Copy DHFS Drafting Recommendations?

Hi, Mara.

Attached is a copy of the draft that Neil Gebhart (legal counsel - direct e-mail is gebhanr@dhfs.state.wi.us) brought to the meeting.

Let me know if there's anything else you need.
-Andy

Andrew Snyder
Dental Analyst
Bureau of Health Care Benefits
Division of Health Care Financing
(608) 266-9749

snydea@dhfs.state.wi.us

>>> "Mara Brooks - WDA" <mbrooks@wda.org> 05/29/03 02:52PM >>>

Andy -

I just spoke with Scott in Wieckert's office --- he asked if we were good to go on the draft --- I said I wasn't sure if the changes recommended by DHFS at the meeting two weeks ago had been incorporated or not --- and I can't seem to locate the memo that you guys handed out at the meeting that would explain (specifically) what changes would need to be made to the draft that I have (attached). The gist of it was to make sure that the clinics are charging other non-Medicaid patients for services --- the purpose is to comply with federal law that requires that the services Medicaid pays for are not given away for free to other patients of the clinic...can you e-mail a copy of the memo you guys handed out so I can forward it to Wieckert's office and so he can forward it to the LRB drafter? Please let me know if this is possible or not. Thanks! mara

Mara Brooks
Director of Government Services
WISCONSIN DENTAL ASSOCIATION
10 East Doty Street, Suite 509
Madison, WI 53703
ph: (608) 250-3442
fax: (608) 282-7716
e-mail: mbrooks@wda.org

-----Original Message-----

From: Andy Snyder [mailto:snydea@dhfs.state.wi.us]
Sent: Thursday, May 29, 2003 10:36 AM
To: mbrooks@wda.org
Subject: Fwd: Re: Medicaid Billing Issue

Hi, Mara.

I've confirmed with our legal counsel that the solution you proposed in your e-mail is sufficient for our purposes. The clinic should maintain (for its own business purposes, as well as in case we would ever have need to request it) a list of services it provides, and the value it places on those services -- that is, what they would charge a regular, privately-insured or private-pay patient who doesn't meet any criteria for charity care. This will constitute its usual and customary rates. The clinic will not need to submit a copy of this schedule to DHFS in order to bill Medicaid, although it should use these amounts when submitting claims. Medicaid will reimburse at the lesser of the UCR or the maximum allowable fee.

Please let me know if you have comments or questions.

Best,
Andy

Andrew Snyder
Dental Analyst

Bureau of Health Care Benefits
Division of Health Care Financing
(608) 266-9749

snydea@dhfs.state.wi.us

>>> "Mara Brooks - WDA" <mbrooks@wda.org> 05/21/03 05:56PM >>>

Andy -

Has DHFS come up with something on the Medicaid billing issue that arose last week? I received a call from Rep. Wieckert's office today trying to find out what the status is and I said I would send you an e-mail and see what's up. Do you have anything more on that yet? If not, do you know when you think you will expect to have something on this?

I'm not quite sure what would be wrong if a dental clinic were to have one fee schedule for all patients and then for them to just accept different payments from different sources --- so they set the fee schedule at what they believe is the value of each of their dental services and that value is the same for all patients. Then, from that fee schedule they bill Medicaid and accept the discounted Medicaid payments as payment in full --- and they also bill the patients but accept the discounted payment of something like \$5 or \$10 per procedure for those patients that fall into a really low income category (100%-200% of poverty) and have no Medicaid coverage. The fee schedule remains the same for all the services provided but the payments made would vary because the payer would be responsible for making the payment on those --- Medicaid is running at about a 50% discount --- and it would simply be a greater discount offered to those who fall in the 100-200% poverty range and have no Medicaid. I don't understand if this is a problem --- and if so, why? Please inform. Thanks. mara

Mara Brooks
Director of Government Services
WISCONSIN DENTAL ASSOCIATION
10 East Doty Street, Suite 509
Madison, WI 53703
ph: (608) 250-3442
fax: (608) 282-7716
e-mail: mbrooks@wda.org

Memo

To: Senator ☐ Representative ☒ Wieckert

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB - 2500

Version: " / 1 "

Fiscal Estimate Prepared By: (agency abbr.) DDA

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 5 / 20 / 2003

* * * * *

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

> **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.

> **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

> **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 _____

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, May 20, 2003 10:29 AM
To: Rep. Wieckert
Cc: Becher, Scott
Subject: LRB-2500/1 (FE by DOA - attached - for your review)



03-2500feDOA.pdf

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us



By Friday p.m., if possible

State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2500/12
DAK:kmg:jf

2003 BILL

Volunteer health care providers include physicians, dentists, registered nurses, licensed practical nurses, nurse-midwives, optometrists, and physician assistants.

expands the definition of "volunteer health care provider" to include dental hygienists and

and dental hygiene

and dental hygiene

- 1 **AN ACT to amend** 146.89 (3) (a) and 146.89 (3) (d) 2.; and **to create** 146.89 (3)
- 2 (e) of the statutes; **relating to:** provision of dental services to Medical
- 3 Assistance recipients by a volunteer health care provider.

Analysis by the Legislative Reference Bureau

Under the Volunteer Health Care Provider Program in current law, health care services of a volunteer health care provider and a nonprofit agency whose joint application is approved by the Department of Administration must be provided without charge primarily to low-income persons who are uninsured and are not recipients of Medical Assistance (MA) or Medicare Program benefits.

This bill authorizes a volunteer health care provider who is a certified provider of MA services to provide dental services to MA recipients. The MA reimbursement ~~must be paid to the~~ nonprofit agency with which the volunteer health care provider is joined in an approved application. ^{such a}

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT 1-3

4

SECTION 1. 146.89 (3) (a) of the statutes is amended to read:

may charge fees for these services to all persons served, but the agency must accept discounted payments, based on ability to pay, from the persons who are not MA recipients

BILL

Sub. (3m)

1 146.89 (3) (a) The volunteer health care provider shall provide services under
 2 par. (b) without charge, except as provided in par. (3), at the nonprofit agency, if the
 3 joint application of the volunteer health care provider and the nonprofit agency has
 4 received approval under sub. (2) (a).

INSERT 2-4

5 SECTION 2. 146.89 (3) (d) 2. of the statutes is amended to read:

6 146.89 (3) (d) 2. Medical assistance Except as provided in par. (3). Medical
 7 Assistance under subch. IV of ch. 49. (3m) or dental hygiene services

8 SECTION 3. 146.89 (3) (a) of the statutes is created to read:

9 146.89 (3) (a) A volunteer health care provider who is certified under s. 49.45
 10 (2) (a) 11. a. may provide dental services to persons who are recipients of Medical
 11 Assistance, for which reimbursement shall be paid to the nonprofit agency rather
 12 than to the volunteer health care provider who provides the dental services. (if)

13 (END)

agency's fees for these services apply to
 the recipients and to persons who are
 not recipients of Medical Assistance and
 the agency accepts discounted payments,
 based on ability to pay, from the persons
 who are not Medical Assistance
 recipients.

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2500/2ins
DAK:kmg:jf

2

INSERT 1-3

SECTION 1. 146.89 (1) of the statutes is amended to read:

146.89 (1) In this section, "volunteer health care provider" means an individual who is licensed as a physician under ch. 448, dentist or dental hygienist under ch. 447, registered nurse, practical nurse or nurse-midwife under ch. 441, optometrist under ch. 449 or physician assistant under ch. 448 or certified as a dietitian under subch. V of ch. 448 and who receives no income from the practice of that health care profession or who receives no income from the practice of that health care profession when providing services at the nonprofit agency specified under sub. (3).

History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.

INSERT 2-4

SECTION 2. 146.89 (3) (b) 8. of the statutes is amended to read:

146.89 (3) (b) 8. Dental services, including simple tooth extractions and any necessary suturing related to the extractions, performed by a dentist who is a volunteer health provider; and dental hygiene services, performed by a dental hygienist who is a volunteer health provider.

History: 1989 a. 206; 1991 a. 269; 1993 a. 28, 490; 1995 a. 27 ss. 4378 to 4380, 9126 (19); 1997 a. 27, 57, 67; 1999 a. 23.

Kennedy, Debora

From: Becher, Scott
Sent: Wednesday, July 02, 2003 11:33
To: Kennedy, Debora
Subject: FW: Dental Malpractice bill

Debora- Look this over and give me a call or email so we can discuss this further..

Sincerely,

Scott Becher

-----Original Message-----

From: Mara Brooks - WDA [mailto:mbrooks@wda.org]
Sent: Tuesday, July 01, 2003 5:47 PM
To: Becher, Scott
Subject: RE: Dental Malpractice bill

Scott:

I have spoken to local dentists who are working on the Tri County Clinic project and they brought up an important issue --- their clinic received a waiver from DHFS several months ago (even though it is not yet operational, the dentists have been busy for quite some time trying to get everything ready to go on this --- if you would like to see a copy of the letter from DHFS which granted the clinic the waiver, I would be happy to fax that to you.) --- the waiver basically allows NON-CERTIFIED dentists to treat Medicaid patients and for the clinic to bill Medicaid and to receive the payment for those services even though the actual providers are not certified --- the clinic is the billing provider and does all the paperwork and gets the reimbursement from the state and this relieves the clinic from having to try to make sure that Medicaid patients are only being served by the volunteer dentists who happen to be Medicaid certified. First of all, many of the dentists who will be volunteering at the clinic will NOT be MA certified and don't want to go through the paperwork process of becoming certified in order to volunteer there --- the state agreed and granted a waiver to them some time ago.

This is background that will hopefully explain our sole concern with the bill draft:

The phrase on line 2-3 of page 3 of the draft reads, "A volunteer health care provider WHO IS CERTIFIED UNDER S. 49.45 (2)(A) 11.A may provide dental services or dental hygiene services to person who are recipients of Medical Assistance...." Because of this phrase, a large portion of the dentists who would be volunteering at this clinic (if they already see MA, they will not likely be volunteering additional time at the MA clinic) --- will not be able to be covered by the program; because of our concerns regarding this phrase, the WDA (and the dentists who are working to set up in this clinic) would like to see the phrase that I have capitalized removed from the bill draft. Please let me know if this is a problem for either you, DHFS or the Ms. Kennedy. Thank you very much for your time and attention to our concerns. Mara

Mara Brooks
Director of Government Services
WISCONSIN DENTAL ASSOCIATION
10 East Doty Street, Suite 509
Madison, WI 53703
ph:(608)250-3442
fax: (608)282-7716
e-mail: mbrooks@wda.org

-----Original Message-----

From: Becher, Scott [mailto:Scott.Becher@legis.state.wi.us]
Sent: Monday, June 30, 2003 5:23 PM
To: Mara Brooks (E-mail)

07/02/2003

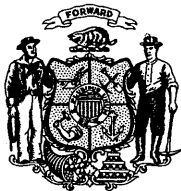
Subject: Dental Malpractice bill

Mara-

Here is the newest draft of the dental bill . What do you think?

Scott

07/02/2003



ID-NOTE

if the volunteer health care provider is a
certified **2003 BILL** provider of MA services,
has received a waiver from the Department
of Health and Family Services of the
certification requirement, or is not required
to be certified

Gen. Cat.

- 1 AN ACT to amend 146.89 (1), 146.89 (3) (a), 146.89 (3) (b) 8. and 146.89 (3) (d) 2.;
- 2 and to create 146.89 (3m) of the statutes; relating to: provision of dental and
- 3 dental hygiene services to Medical Assistance recipients by a volunteer health
- 4 care provider.

The bill

dentist or
dental hygienist

Analysis by the Legislative Reference Bureau

Under the Volunteer Health Care Provider Program in current law, health care services of a volunteer health care provider and a nonprofit agency whose joint application is approved by the Department of Administration must be provided without charge primarily to low-income persons who are uninsured and are not recipients of Medical Assistance (MA) or Medicare Program benefits. Volunteer health care providers include physicians, dentists, registered nurses, licensed practical nurses, nurse-midwives, optometrists, and physician assistants.

This bill expands the definition of "volunteer health care provider" to include dental hygienists ~~and~~ authorizes a volunteer health care provider who is a ~~certified provider of MA services~~ to provide dental ~~and~~ dental hygiene services to MA recipients. The nonprofit agency with which such a volunteer health care provider is joined in an approved application may charge fees for these services to all persons served, but the agency must accept discounted payments, based on ability to pay, from the persons who are not MA recipients.

or

BILL

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 146.89 (1) of the statutes is amended to read:

2 146.89 (1) In this section, “volunteer health care provider” means an individual
3 who is licensed as a physician under ch. 448, dentist or dental hygienist under ch.
4 447, registered nurse, practical nurse or nurse–midwife under ch. 441, optometrist
5 under ch. 449, or physician assistant under ch. 448 or who is certified as a dietitian
6 under subch. V of ch. 448 and who receives no income from the practice of that health
7 care profession or who receives no income from the practice of that health care
8 profession when providing services at the nonprofit agency specified under sub. (3).

9 **SECTION 2.** 146.89 (3) (a) of the statutes is amended to read:

10 146.89 (3) (a) The volunteer health care provider shall provide services under
11 par. (b) without charge, except as provided in sub. (3m), at the nonprofit agency, if
12 the joint application of the volunteer health care provider and the nonprofit agency
13 has received approval under sub. (2) (a).

14 **SECTION 3.** 146.89 (3) (b) 8. of the statutes is amended to read:

15 146.89 (3) (b) 8. Dental services, including simple tooth extractions and any
16 necessary suturing related to the extractions, performed by a dentist who is a
17 volunteer health provider; and dental hygiene services, performed by a dental
18 hygienist who is a volunteer health provider.

19 **SECTION 4.** 146.89 (3) (d) 2. of the statutes is amended to read:

20 146.89 (3) (d) 2. ~~Medical assistance~~ Except as provided in sub. (3m), Medical
21 Assistance under subch. IV of ch. 49.

BILL

1 SECTION 5. 146.89 (3m) of the statutes is created to read:

2 146.89 (3m) A volunteer health care provider who is ^{a volunteer health care} ~~certified under s. 49.45~~ ^{provider who is}
 3 ^{a dentist} ~~(2) (a) 11. a.~~ may provide dental services or dental hygiene services to persons who ^{a dental hygienist} ~~may provide~~
 4 are recipients of Medical Assistance ^{if} ~~the~~ nonprofit agency's fees for these services
 5 apply to the recipients and to persons who are not recipients of Medical Assistance.
 6 ^{# (b)} ~~and~~ the agency accepts discounted payments, based on ability to pay, from the
 7 persons who are not Medical Assistance recipients.

8 (END)

all of the following
apply: # (a)

(c) The volunteer health care provider is
 certified under s. 49.45 (2) (a) 11. a., the department
 has waived the requirement for certification,
 or the volunteer health care provider is
 not required to be certified under s. 49.45 (2) (a) 11. a.

(End)

D-NOTE

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2500/3dn
DAK:kmg:rs



To Representative Wieckert:

WPS:
OK

I have redrafted this bill to accommodate the fact that the Tri County Clinic has received a waiver from DHFS of the Medical Assistance certification requirement for several of the dentists who will be volunteering their services at the clinic to MA recipients. Because s. 146.89 (3m) in this bill is written generally, it applies both to the Tri County Clinic situation and to other situations in which such waivers may not have been granted. Therefore, I did not delete "certified under s. 49.45 (2) (a) 11. a.," as requested. Instead, I have made both certification and waiver from the certification requirement as options. In addition, because the DHFS rule at HFS 105.01 (5) (a) 1., Wis. Admin. Code, exempts dental hygienists from individual certification, I have provided a third option, under which MA certification is not required.

Please review the bill and let me know if these changes are adequate for your purposes. I will be glad to provide any additional assistance that is needed.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2500/3dn
DAK:kmg:jf

July 10, 2003

To Representative Wieckert:

I have redrafted this bill to accommodate the fact that the Tri County Clinic has received a waiver from DHFS of the Medical Assistance certification requirement for several of the dentists who will be volunteering their services at the clinic to MA recipients. Because s. 146.89 (3m) in this bill is written generally, it applies both to the Tri County Clinic situation and to other situations in which such waivers may not have been granted. Therefore, I did not delete "certified under s. 49.45 (2) (a) 11. a.," as requested. Instead, I have made both certification and waiver from the certification requirement as options. In addition, because the DHFS rule at HFS 105.01 (5) (a) 1., Wis. Admin. Code, exempts dental hygienists from individual certification, I have provided a third option, under which MA certification is not required.

Please review the bill and let me know if these changes are adequate for your purposes. I will be glad to provide any additional assistance that is needed.

Debora A. Kennedy
Managing Attorney
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E-mail: debora.kennedy@legis.state.wi.us